

REMARKS

Claims 1-30 were originally filed in the present application.

Claims 1 and 16 have been rejected.

Claims 2-15 and 17-30 have been objected to.

No claims have been amended.

The Applicant requests reconsideration of the claims in view of the following arguments.

In Section 1 of the December 13, 2004 Office Action, the Examiner rejected Claims 1 and 16 under 35 U.S.C. 102(e) as being anticipated by United States Patent Application Publication No. 2002/0077104 to *Chen, et al.* (hereinafter, simply "*Chen*"). The Applicant respectfully traverses the rejection.

The Applicant directs the Examiner's attention to Claim 1, which contains the unique and non-obvious limitations emphasized below:

1. For use in a wireless communication system comprising at least two base stations and a mobile station, an apparatus for providing rescue channel communications between said at least two base stations in said wireless communication system, said apparatus comprising:

a rescue base station that is capable of communicating with said mobile station that is capable of providing a rescue channel for said mobile station; and
a source base station that is capable of communicating with said mobile station and with said rescue base station and that is capable of sending messages to said rescue base station to establish a rescue channel from said source base station to said mobile station through said rescue base station. (*emphasis added*)

The Applicant respectfully asserts that the above-emphasized limitations are not disclosed, suggested, or even hinted at in the *Chen* reference.

In rejecting Claim 1, the Examiner cited Figure 4 and paragraph [0079] of the *Chen* reference. The Examiner asserted that the cited paragraph teaches a source base station capable of sending messages to a rescue base station to establish a rescue channel from the source base station to a mobile station through the rescue base station.

The Applicant respectfully disagrees with the Examiner's assertions regarding the subject matter disclosed in the *Chen* reference. The text of paragraph [0079] of the *Chen* reference, relied upon by the Examiner, states:

In an alternate embodiment, more than one default channel is assigned to the neighbor BS2 34. The use of multiple default or rescue channels increases the call recovery capability of a system 10. Each neighbor is then able to contribute to call recovery of more than one mobile station, such as MS 38. In operation, prior to call recovery, the source cell BS1 32 provides to MS 38 an identifier corresponding to the multiple channels associated with BS2 34. The MS 38 and BS2 34 each store a deterministic function, such as a hash function, to map the identifiers to a specific channel. The use of a hash function in particular is a pseudorandom procedure. In addition, an electronic serial number is assigned to the MS 38. The electronic serial number may be stored in the MS 38 or may be provided to the MS 38 on call recovery. On call recovery, the source cell BS1 32 provides the electronic serial number of MS 38 to the BS2 34. The BS2 34 and the MS 38 both apply the predetermined function to calculate the appropriate default channel.

The Applicant respectfully asserts that the above-cited paragraph of the *Chen* reference does not disclose, suggest or even hint at the unique and non-obvious limitations recited in Claim 1.

The Abstract of the *Chen* reference describes a wireless communication system in which a mobile station and the infrastructure of the system prearrange a list of potential rescue base stations. When the communication link between the mobile station and a base station is in trouble, the mobile station establishes a soft handoff with one of the rescue base stations using a default rescue

transmission channel. Once the soft handoff has been completed, the mobile station and the rescue base station cease using the default rescue transmission channel.

Paragraph [0079], cited by the Examiner, describes an alternative embodiment in which a base station may be assigned more than one default channel for use in simultaneous call recovery operations with multiple mobile stations. Both the mobile station and the rescue base stations are informed of these default rescue transmission channels. The mobile station is also assigned an electronic serial number, which is communicated to the mobile station and to the rescue base stations.

Thus, the *Chen* reference describes a system that establishes a rescue channel between a rescue base station and a mobile station. The Applicant is unable to find, however, in paragraph [0079], or indeed anywhere in the *Chen* reference, a description of the unique and non-obvious limitations of Claim 1 emphasized above. The Applicant respectfully submits that the *Chen* reference does not teach a source base station capable of sending messages to a rescue base station to establish a rescue channel between the source base station and a mobile station, by way of the rescue base station, as recited in Claim 1.

As such, independent Claim 1 contains patentable subject matter over the *Chen* reference. Also, dependent Claims 2-15 depend from Claim 1 and contain all of the unique and non-obvious limitations recited in Claim 1. Thus, Claims 2-15 also are patentable over the cited prior art references.

Independent Claim 16 contains limitations that are analogous to the unique and non-obvious limitations recited in independent Claim 1. This being the case, Claim 16 is patentable over the *Chen* reference. Furthermore, dependent Claims 17-30, which depend from Claim 16, contain all of the unique and non-obvious limitations recited in Claim 16. Thus, dependent Claims 17-30 also are patentable over the cited prior art references.

The Applicant thanks the Examiner for the indication that Claims 2-15 and 17-30 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Because the Applicant believes Claims 2-15 and 17-30 depend from allowable base claims, the Applicant has not rewritten Claims 2-15 and 17-30.

SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of pending claims and that this Application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@davismunck.com*.

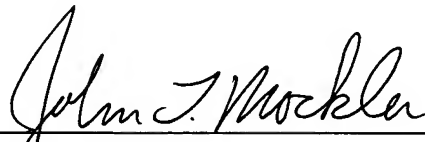
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 24 Feb. 2005

P.O. Drawer 800889
Dallas, Texas 75380
Phone: (972) 628-3600
Fax: (972) 628-3616
E-mail: *jmockler@davismunck.com*



John T. Mockler
Registration No. 39,775